

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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**ORIGINAL APPLICATION No. 060/00643/2014 & M.A. NO.
060/01030/2014 & 060/00428/2015**

**Date of filing: 30.07.2014
Order reserved on: 19.09.2016**

Chandigarh, this the 27th day of September, 2016

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**CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J) &
HON'BLE SMT. RAJWANT SANDHU, MEMBER (A)**

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1. Surinder Kumar s/o late Sh. Isher Dass, Technical Officer 'C' (Retd.), Semi Conductor Laboratory, now resident of House No. HB-130, Phase-I, Mohali, Punjab.
2. Hukam Singh Bartwal s/o Sh. T.S. Bartwal, Office Assistant (Retd.), Semi Conductor Laboratory, now r/o House No. 300/56, Block-A, Adarsh Nagar, Naya Gaon (Mohali).
3. Ravinder Malhotra s/o Sh. Dharam Chand Malhotra, Scientist/ Engg-SF (Retd), Semi Conductor Laboratory, now r/o House NO. 793, Sector 12, Panchkula.
4. Surinder Singh s/o Sh. Dharam Singh, S.T.A. 'B' (Retd.), Semi Conductor Laboratory, now r/o House NO. 5674A, Sector 38 West, Chandigarh.

....APPLICANTS

BY ADVOCATE: SHRI R.K. SHARMA

VERSUS

1. Union of India through Secretary to Government of India, Department of Space, New Delhi.
2. Secretary to Govt. of India, Department of Space-cum-Chairman, Managing Committee, Semi Conductor Limited, Antariksh Bhavan, New B.E.L. Road, Bangalore 660.231.
3. Semi Conductor Laboratory, Department of Space, Govt. of India, Sector 72, S.A.S. Nagar, Punjab through its Director.

....RESPONDENTS

BY ADVOCATE: SHRI S.P. JAIN, ADDITIONAL SOLICITOR GENERAL
ALONGWITH MS. NIDHI GARG

ORDER

HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER(J):-

M.A. No. 060/00428/2015 is allowed and Annexures A-21 to A - 24 are taken on record subject to all just exceptions.

2. This Original Application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by four applicants who were employees of respondent no. 3—Semi-Conductor Laboratory (SCL). Respondent no. 3 was a company under the administrative control of Department of Information Technology and was governed under the Industrial Dearness Allowance (IDA) pattern. This limited company was converted into a Registered Society under the Department of Space of the Govt. of India. Superannuation age of the employees of the respondent no. 3 was 58 years. The applicants retired from the service of respondent no. 3 on attaining the superannuation age of 58 years in the year 2013 i.e. applicant no. 1 on 30.4.2013, applicants no. 2 & 3 on 31.5.2013 and applicant no. 4 on 30.6.2013. Some employees had earlier filed O.As. before this Tribunal to claim superannuation age of 60 years at par with Central Govt. employees. The O.As. were dismissed by the Tribunal.

3. Department of Space has taken a decision to enhance the superannuation age of employees of respondent no. 3 to 60 years at par with employees of Department of Space. The applicants submitted representations for granting them extension in service for two years

till the age of 60 years. Representation of applicant no. 1 was rejected vide order dated 12.4.2013 (Annexure A-2).

4. Ultimately Department of Space, Govt. of India vide communication dated 16.7.2013 (Annexure A-1) granted approval of the Prime Minister as Minister Incharge for enhancing retirement age of SCL employees from 58 years to 60 years. The approval is to apply to superannuation retirement of SCL employees taking place from the month of July 2013 onwards and will not apply to the past cases under any circumstances. Consequently, similar order dated 29.7.2013 (Annexure A-1/1) was issued by SCL- respondent no. 3. The applicants are aggrieved by the said orders (Annexures A-1 and A-1/1) to the extent of fixing the 'cut off date' of enhancing the retirement age to be from July 2013 and that it will not apply to past cases, and have sought quashing thereof. The applicants have also sought quashing of order (Annexure A-2) whereby representation of applicant no. 1 was rejected. They have sought direction to the respondents to allow the applicants to continue in service upto the age of 60 years. The applicants have alleged that they are entitled to be treated at par with Central Govt. employees in the matter of superannuation age. It was also pleaded that Management Council of SCL vide Resolution dated 3.11.2012 (Annexure A-11) recommended enhancement of retirement age of its employees from 58 to 60 years and, therefore, the 'cut off date' should be 3.11.2012 and the enhanced retirement age benefit should be extended to employees (including the applicants) who were in service of SCL on 3.11.2012. It is pleaded that neither Secretary of Department of Space nor the Minister Incharge has fixed any 'cut off

date' and the word 'prospectively' should relate to date of resolution of the Management Council of SCL i.e. 3.11.2012.

5. Respondents in their written statement controverted the grounds pleaded by the applicants and pleaded that the enhanced superannuation age of 60 years is not applicable to the applicants who had retired from April to June 2013 because the said enhanced age is applicable to those who retired at the end of July 2013 and onwards. Enhanced age of retirement was prospective and is not applicable to the applicants who had already retired before the enhanced retirement age was enforced. It was also pleaded that only applicant no. 1 had made representation for extension in service and it was rejected vide order (Annexure A-2) whereas applicants no. 2 to 4 had not made any such representation. The applicants were lawfully retired on attaining the age of 58 years.

6. The applicants filed replication wherein they controverted the stand of the respondents and reiterated their own version.

7. We have heard counsel for the parties and perused the case file.

8. Counsel for the applicants reiterated that recommendation by Management Council of respondent no. 3 for enhancing the retirement age of its employees from 58 years to 60 years was made vide resolution dated 3.11.2012 and, therefore, the 'cut off date' for implementing the said enhanced retirement age should be 3.11.2012 and its benefit should also, therefore, accrue to the applicants.

9. On the other hand, counsel for respondents contended that vide communication dated 16.7.2013 (Annexure A-1) by Govt. of India, Department of Space, approval for enhancing retirement age of SCL employees from 58 years to 60 years was granted so as to apply to the employees whose retirement on superannuation was to take place from the month of July 2013 and onwards and it was not to apply to past cases under any circumstances. Consequently order dated 29.7.2013 (Annexure A-1/1) on the same lines was issued by SCL. It was thus contended that enhanced retirement age has rightly been applied prospectively and its benefit is not available to the applicants who had already retired from April to June 2013.

10. We have carefully considered the matter. There is no force in the contentions raised by counsel for applicants. Approval of enhanced retirement age was made in July 2013 and consequently the same has been rightly made applicable from July 2013 and onwards. If it has not been applied retrospectively, there is nothing illegal in the aforesaid action of the respondents. Normally such benefits are applicable only prospectively unless specifically made applicable retrospectively from some earlier date for which there has to be justification. In the instant case, contention of the applicants that the enhanced retirement age should be applicable w.e.f. 3.11.2012 when recommendation for the same was made by Management Council for SCL cannot be accepted. It is for the competent authority granting final approval to make it applicable prospectively after the date of approval. The 'cut off date' has been prescribed vide Department of Space communication dated 16.7.2013 (Annexure A-1) . Consequently, it cannot be said that the said 'cut off date' has not been prescribed by the Department of

Space. Plea of the applicants that SCL employees were at par with Central Govt. employees for the purpose of retirement age also cannot be accepted. SCL was a limited company and was converted into a Registered Society. Consequently, service conditions of Central Govt. employees did not automatically apply to SCL employees. On the other hand, O.As. filed by some employees of SCL to claim retirement age of 60 years at par with Central Govt. employees admittedly stood dismissed by the Tribunal.

11. For the reasons aforesaid, we find that there is no infirmity much less illegally in impugned communication dated 16.7.2013 (Annexure A-1) and impugned order dated 29.7.2013 (Annexure A-1/1) whereby enhanced retirement age of 60 years has been made applicable w.e.f. July 2013 and onwards and not to past cases, and so also in order dated 12.4.2013 Annexure A-2).

12. The matter may also be examined from another angle. The instant O.A. was filed on 30.7.2014 i.e. more than a year after issuance of impugned order dated 16.7.2013 (Annexure A-1) and impugned order dated 29.7.2013 (Annexure A-1/1) . By then, out of benefit of 2 years claimed by the applicants, already 15 months had elapsed from the retirement of applicant no. 1, 14 months from the retirement of applicants no. 2 & 3 and 13 months from the retirement of applicant No. 4. During the pendency of the instant O.A., the remaining period out of 2 years claimed by the applicants also elapsed till June 2015 i.e. more than a year ago. Consequently at this distant stage of time, no benefit can be extended to the applicants. They cannot be deemed to have continued in service for another 2 years

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without actually being in service. No such benefit can be extended to them. We may hasten to add that the applicants are otherwise also not entitled to any such benefit.

13. Resultantly, we find no merit in the instant O.A. The O.A. is dismissed with no order as to costs. M.A. NO. 060/01030/2014 for condonation of delay, if any, in filing the O.A. is disposed of as infructuous.


(JUSTICE L.N. MITTAL)
MEMBER (J)


(RAJWANT SANDHU)
MEMBER (A)

Dated: 27.09.2016

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